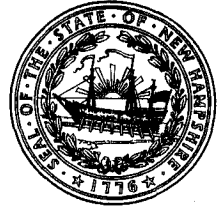




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

October 25, 2005

Conn Brothers Construction, Inc.
Attn: William Conn
Lost River Road
PO Box 670
North Woodstock, NH 03262

Re: Docket No. AF 05-046 Motion to Accept Settlement Agreement

Dear Mr. Conn:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Sclafani,
Legal Assistant

cc: Harry T. Steward, P.E., Director, Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Stergios Spanos, DES WD

Conn Brothers Construction, Inc.
Lost River Road
Post Office Box 670
North Woodstock, NH 03262

Re: Gravel Pit on Route 3, Tax Map 208 Lot 13
North Woodstock, NH

**ADMINISTRATIVE FINE
No. AF 05-046**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Water Division ("the Division") and Conn Brothers Construction, Inc. ("CBC"), parties to the above-captioned matter, and stipulate to the following:

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401-405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. Pursuant to RSA 485-A:22, V, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations relating to this program. Pursuant to this section, the Commissioner has adopted Env-C 603 to establish the schedule of fines for such violations.
3. CBC operates a gravel pit on Route 3 in North Woodstock, NH, identified on Woodstock Tax Map 208 as lot 13 ("the Facility").
4. On May 24, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-046 ("the Notice") to CBC, seeking fines totaling \$6,000 for violations of RSA 485-A:13 and related sections.
5. Specifically, the Notice cited CBC for violating RSA 485-A:13, I(a) by discharging waste from its gravel pit operations, through a cattle pasture, into Beaver Brook, without a permit to discharge to a surface water of the state. Pursuant to Env-C 603.05(a), the Division sought a fine of \$6,000.
6. In order to settle this matter, the Division and CBC have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
7. Of the proposed fine, in the amount of \$6,000, 20% or \$1,200 shall be waived due to CBC's good faith effort to return the Facility to compliance. An additional 20% or \$1,200 shall be waived due to CBC's small business status.

8. CBC agrees to pay the remaining fine of \$3,600 as follows: CBC agrees to pay \$1,200 upon execution of this Agreement. CBC agrees to pay \$1,200 within 30 days from the date of this agreement. CBC agrees to pay \$1,200 within 60 days from the date of this agreement.

9. Payments under Paragraph #8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

10. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

11. By executing this Agreement, CBC waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

12. The effective date of this Agreement will be the date on which it is signed by, an authorized representative of CBC, the Director of the Water Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

13. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Conn Brothers Construction, Inc.

COPY

Date

10-2-05

By: William Conn, President
Duly Authorized

DES Water Division

COPY

Harry T. Stewart, P.E., Director
Water Division

This Motion to Accept Settlement agreement is granted this 24th day of October, 2005.

COPY

Michael P. Nomm, Commissioner
Department of Environmental Services

cc: Michael J. Walls, DES Assistant Commissioner
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Public Information Officer, DES PIP Office
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Stergios Spanos, WWEB Compliance and Enforcement Subsection
George Berlandi, Supervisor, WWEB Permits and Compliance Section
Ridge Mauck, Supervisor, Water Quality Engineering Section
Mitch Locker, Water Supply Engineering Bureau
cc: Woodstock Board of Selectman
Woodstock Police Department (reference Incident #: 05-173-OF)